

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cv-00280-GCM**

GREAT LAKES REINSURANCE
(UK) SE,

Plaintiff,

v.

D&B MARINE, LLC.,

Defendant.

ORDER

THIS MATTER is before the Court on Plaintiff's Motion to Dismiss Defendant's Third and Fourth Causes of Action (Doc. 21) and Defendant's Response to Plaintiff's Motion to Dismiss (Doc. 26). No reply was filed by the Plaintiffs.

On June 1, 2016, Plaintiff filed its Complaint against Defendant D&B Marine, LLC. (Doc. 1). On August 4, 2016, Defendant filed its Answer and Counterclaim. (Doc. 8). On August 25, 2016, Plaintiff filed its Amended Complaint (Doc. 20). On August 29, 2016, Plaintiff Great Lakes Reinsurance (UK) SE's Motion to Dismiss Defendant D&B Marine, LLC's Third and Fourth Causes of Action (hereinafter "Motion to Dismiss") (Doc. 21) was filed. On September 1, 2016, Plaintiff filed its Reply to the Counterclaim. (Doc. 23).

Defendant amended its Counterclaim and omitted any claims/causes of action for violation of the North Carolina Unfair and Deceptive Trade Practices Act, N.C.G.S. § 75-1.1 *et seq.* and N.C.G.S. § 58-63-15 (Third Claim for Relief in Defendant's Counterclaim) and "bad faith denial of claim" (Fourth Claim for Relief in Defendant's Counterclaim). By virtue of Defendant amending its Counterclaim, Plaintiff's Motion to Dismiss claims solely related to the original

Counterclaim is rendered moot. *Mooney v. Cat Corp.*, 2007 WL 2406961 (W.D.N.C. 2007)(“As a matter of law, defendant’s Motion to Dismiss is mooted by the filing of the Amended Complaint.”).

Plaintiff’s Amended Complaint subsequent to the filing of the Motion to Dismiss and Defendant’s timely filed Answer to the Amended Complaint and Amended Counterclaim renders the Motion to Dismiss claims originally asserted in the Counterclaim moot.

IT IS THEREFORE ORDERED, that Plaintiff’s Motion to Dismiss is hereby **DENIED**.

Signed: February 10, 2017

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

